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<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/021,238	ESHEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joel M. Lamprecht	3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/30/07.
2. ☒ The allowed claim(s) is/are 1-43,99-143,199 and 200.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date <u>4/30/07, 8/27/07</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                           | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9. <input type="checkbox"/> Other _____.   |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendments filed on 8/13/07 under 37 CFR 1.131 is sufficient to overcome the references of record. Additionally, the terminal disclaimer filed 8/30/07 with regards to application 10/021238 has been accepted and the double patenting rejection pertaining to that copending application is also withdrawn. Finally the double patenting rejection with regards to 10/250955 is withdrawn as the application is abandoned.

### **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Allan Entis on 10/11/07, and 10/29/07.

The application has been amended as follows:

#### **Claim 1**

A method for lysing adipose tissue comprising the steps of:  
Directing focused ultrasonic energy at a target volume containing both adipose tissue and non-adipose tissue in a region of the body containing adipose tissue; and  
modulating said focused ultrasonic energy so as to selectively lyse at least most of said adipose tissue in said target volume and ~~generally~~ not lyse non-adipose tissue in said target volume which receives said ultrasonic energy.

**Claim 101**

Apparatus for lysing adipose tissue comprising:

A focused ultrasonic energy director, directing focused ultrasonic energy at a target volume in a region of a body containing adipose and non-adipose tissue; and  
a modulator, cooperating with said energy director' to produce a focused ultrasonic energy such that at least most of said adipose tissue within said target volume is lysed and non-adipose tissue within said target volume which receives said ultrasonic energy is generally not lysed.

**Claim 199**

Apparatus for lysing adipose tissue comprising:

A director, directing ultrasonic energy at a multiplicity of target volumes within a region of a body, which target volumes contain adipose tissue and non-adipose tissue, a modulator, -- **cooperating with said energy director to produce focused ultrasonic energy** -- thereby to lyse at least most of said adipose tissue within said target volumes and generally not lyse non-adipose tissue within said target volumes which receives said ultrasonic energy; and computerized tracking functionality providing computerized tracking of said multiplicity of target volumes notwithstanding movement of said body

***Allowable Subject Matter***

**3. The following is an examiner's statement of reasons for allowance:**

The present application is allowable over the prior art because the present application discloses an anatomical selectivity within ultrasound lysis of adipose tissues.

This anatomical selectivity allows both the adipose tissues and other various tissues surrounding and intermixed with adipose tissues to receive the ultrasound beams while lysing the adipose tissues. The closest references disclose lysis of adipose tissues and selection of areas of interest and therapy that are small enough to prevent lysis of non-adipose tissues, but both the adipose tissue and non-adipose tissues do not receive the ultrasound beam, only the adipose tissue does, and the prevention of lysis is generated from the tight focus of the beam, rather than the wave properties and modulation of the beam itself.

**Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joel M. Lamprecht whose telephone number is (571) 272-3250. The examiner can normally be reached on Monday-Friday 7:30AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML  
10/11/07

A handwritten signature in black ink, appearing to be 'B. H. L.', is located in the lower right quadrant of the page. Below the signature, there is a faint, circular official stamp, likely from the USPTO, though its details are not clearly legible.